

Attorney's Docket No. 1759.2570-CIP 4 CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Reiley et al.

Group Art Unit: Unknown

Serial No.: Unknown

Examiner: Unknown

Filed: Unknown

For: A Sterile Kit for Holding a Single Use, Expandable Structure Intended for Deployment in Bone

Commissioner of Patents and Trademarks
Washington, D.C. 20231TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT WITHIN
THREE MONTHS OF FILING OR BEFORE MAILING OF FIRST OFFICE ACTION
(37 CFR 1.97(b))

NOTE: "An information disclosure statement shall be considered by the Office if filed: (1) within three months of the filing date of a national application; (2) within three months of the date of entry of the national stage as set forth in S 1.491 in an international application; or (3) before the mailing date of a first Office action on the merits, whichever event occurs last." 37 CFR 1.97(b).

NOTE: The "filing date of a national application" under 37 CFR 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 CFR 1.53(b) as "the date on which: (1) A specification containing a description pursuant to S 1.71 and at least one claim pursuant to S 1.75; and (2) any drawing required by S 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by S 1.41." 37 CFR 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. S 371(c) within the periods set forth in S 1.494 or S 1.495. 35 U.S.C. S 371(c) requires the filing of the following: (1) the national fee; (2) a copy of the international application, unless already sent by the International Bureau, and an English translation if filed in another language; (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. 37 CFR 1.97(b)(2).

IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION
DISCLOSURE STATEMENT

The information disclosure statement submitted herewith is being filed WITHIN THREE MONTHS OF THE FILING DATE OF THE APPLICATION OR DATE OF ENTRY INTO THE NATIONAL STAGE OF AN INTERNATIONAL APPLICATION OR BEFORE THE MAILING DATE OF A FIRST OFFICE ACTION ON THE MERITS, WHICHEVER EVENT OCCURS LAST. 37 CFR 1.97(b).

CERTIFICATION UNDER 37 C.F.R. 1.10*

I hereby certify that this New Application Transmittal and the documents referred to as attached therein are being deposited with the United States Postal Service on this date 19 June 2001, in an envelope as "Express Mail Post Office to Addressee" mailing Label Number E4 746528760US, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

Judith Biebel

(type or print name of person mailing paper)

Signature of person mailing paper

NOTE: "NO CERTIFICATION OR FEE IS DUE WHEN THE FILING IS MADE WITHIN THE ABOVE TIME PERIOD. IT IS ADVISABLE TO ENSURE THAT NO OFFICE ACTION HAS BEEN MAILED IF THE DISCLOSURE STATEMENT IS DELAYED UNTIL AFTER THREE MONTHS FROM FILING.

NOTE: "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 CFR 1.8, or Express Mail certificate under 37 CFR 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

NOTE: "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

NOTE: "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirements (37 CFR 1.142) or just a requirement for additional fees to have a claim considered (37 CFR 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

WARNING: "A PETITION FOR SUSPENSION OF ACTION TO ALLOW APPLICANT TIME TO SUBMIT AN INFORMATION DISCLOSURE STATEMENT WILL BE DENIED AS FAILING TO PRESENT GOOD AND SUFFICIENT REASONS, SINCE 37 CFR 1.97 PROVIDES ADEQUATE RECOURSE FOR THE TIMELY SUBMISSION OF PRIOR ART FOR CONSIDERATION BY THE EXAMINER." NOTICE OF JULY 6, 1992 (1141 O.G. 63).

COPIES OF THE DOCUMENTS LISTED ON THE ATTACHED FORM PTO-1449 CAN BE FOUND IN THE FILE WRAPPER OF CO-PENDING PARENT PATENT APPLICATION SERIAL NO. 08/911,805 FILED 15 AUGUST 1997 AND ARE THEREFORE NOT INCLUDED WITH THIS SUBMISSION.

Should any fees be necessary in connection with this submission, please charge same to Account No. 06-2360.

Date 19 June 2001

Reg. No. 29,243

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INFORMATION DISCLOSURE CITATION

(Use several sheets if necessary)

Docket Number (Optional)
1759.2570-CIP 4

Application Number
Unknown

Applicant(s)
Reiley et al.

Filing Date
Unknown

Group Art Unit
Unknown

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
		4,367,816	1/1983	Wilkes			
		5,549,388	8/1996	Wilkes			
		5,549,679	8/1996	Kuslich			
		5,108,404	4/1992	Scholten et al.			
		5,176,692	1/1993	Wilk et al.			



FOREIGN PATENT DOCUMENTS

	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
							YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.